

§ 501(13), Nov. 8, 1984, 98 Stat. 3367; Pub. L. 99-502, § 9(c), Oct. 20, 1986, 100 Stat. 1796; Pub. L. 103-272, § 5(j), July 5, 1994, 108 Stat. 1375; Pub. L. 104-113, § 7, Mar. 7, 1996, 110 Stat. 779; Pub. L. 105-393, title II, § 220(c)(2), Nov. 13, 1998, 112 Stat. 3625; Pub. L. 107-273, div. C, title III, § 13206(a)(16), Nov. 2, 2002, 116 Stat. 1905; Pub. L. 109-58, title X, § 1009(a)(2), Aug. 8, 2005, 119 Stat. 934.)

REFERENCES IN TEXT

The Act and this Act, referred to in subsec. (a), is Pub. L. 96-517, Dec. 12, 1980, 94 Stat. 3015, which enacted sections 200 to 211 and 301 to 307 of this title, amended sections 41, 42, and 154 of this title, section 1113 of Title 15, Commerce and Trade, sections 101 and 117 of Title 17, Copyrights, and sections 2186, 2457, and 5908 of Title 42, The Public Health and Welfare, and enacted provisions set out as notes under sections 13 and 41 of this title. For complete classification of this Act to the Code, see Tables.

Section 12 of the National Science Foundation Act of 1950 (42 U.S.C. 1871(a); 82 Stat. 360), referred to in subsec. (a)(5), was amended by Pub. L. 99-159, title I, § 109(c), Nov. 22, 1985, 99 Stat. 889, by striking out subsec. (b) and designating subsec. (a) as the entire section.

Section 3 of the Act of April 5, 1944 (30 U.S.C. 323; 58 Stat. 191), referred to in subsec. (a)(13), was omitted from the Code.

Section 306(d) of the Surface Mining and Reclamation Act, referred to in subsec. (a)(17), was classified to section 1226(d) of Title 30, Mineral Lands and Mining, prior to enactment of Pub. L. 98-409, which enacted a new section 1226 of Title 30. See section 1226(c) of Title 30.

The Native Latex Commercialization and Economic Development Act of 1978, referred to in subsec. (a)(20), is Pub. L. 95-592, Nov. 4, 1978, 92 Stat. 2529, as amended, which, as amended by Pub. L. 98-284, May 16, 1984, 98 Stat. 181, is known as the Critical Agricultural Materials Act and is classified principally to subchapter II (§178 et seq.) of chapter 8A of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 178 of Title 7 and Tables.

Section 408 of the Water Resources and Development Act of 1978 (42 U.S.C. 7879; 92 Stat. 1360), referred to in subsec. (a)(21), was repealed by Pub. L. 98-242, title I, § 110(a), Mar. 22, 1984, 98 Stat. 101. See section 10308 of Title 42, The Public Health and Welfare.

The Stevenson-Wylder Technology Innovation Act of 1980, referred to in subsec. (e), is Pub. L. 96-480, Oct. 21, 1980, 94 Stat. 2311, as amended, which is classified generally to chapter 63 (§3701 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of Title 15 and Tables.

AMENDMENTS

2005—Subsec. (a)(8). Pub. L. 109-58 substituted “Coal Research and Development Act of 1960” for “Coal Research Development Act of 1960”.

2002—Subsec. (a)(11). Pub. L. 107-273, § 13206(a)(16)(A)(i), substituted “5908” for “5901”.

Subsec. (a)(20). Pub. L. 107-273, § 13206(a)(16)(A)(ii), substituted “178j” for “178(j)”.

Subsec. (c). Pub. L. 107-273, § 13206(a)(16)(B), substituted “section 202(c)(4)” for “paragraph 202(c)(4)” and struck out second period after “title”.

1998—Subsec. (a)(11) to (22). Pub. L. 105-393 redesignated pars. (12) to (22) as (11) to (21), respectively, and struck out former par. (11) which read as follows: “subsection (e) of section 302 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 302(e); 79 Stat. 5);”.

1996—Subsec. (e). Pub. L. 104-113 struck out “, as amended by the Federal Technology Transfer Act of 1986,” after “1980”.

1994—Subsec. (a)(4). Pub. L. 103-272 substituted “section 30168(e) of title 49” for “section 106(c) of the Na-

tional Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1395(c); 80 Stat. 721)”.

1986—Subsec. (e). Pub. L. 99-502 added subsec. (e).

1984—Subsec. (c). Pub. L. 98-620 substituted “February 18, 1983” for “August 23, 1971 (36 Fed. Reg. 16887)” and inserted provision that all funding agreements, including those with other than small business firms and nonprofit organizations, shall include the requirements established in paragraph 202(c)(4) and section 203 of this title.

CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108-458, set out as a note under section 401 of Title 50, War and National Defense.

§ 211. Relationship to antitrust laws

Nothing in this chapter shall be deemed to convey to any person immunity from civil or criminal liability, or to create any defenses to actions, under any antitrust law.

(Added Pub. L. 96-517, § 6(a), Dec. 12, 1980, 94 Stat. 3027.)

REFERENCES IN TEXT

The antitrust laws, referred to in text, are classified generally to chapter 1 (§1 et seq.) of Title 15, Commerce and Trade.

§ 212. Disposition of rights in educational awards

No scholarship, fellowship, training grant, or other funding agreement made by a Federal agency primarily to an awardee for educational purposes will contain any provision giving the Federal agency any rights to inventions made by the awardee.

(Added Pub. L. 98-620, title V, § 501(14), Nov. 8, 1984, 98 Stat. 3368.)

PART III—PATENTS AND PROTECTION OF PATENT RIGHTS

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AMENDMENTS

2002—Pub. L. 107-273, div. C, title III, § 13206(a)(17), Nov. 2, 2002, 116 Stat. 1905, inserted a comma after “Patent” in item for chapter 29.

1999—Pub. L. 106-113, div. B, § 1000(a)(9) [title IV, § 4604(b)], Nov. 29, 1999, 113 Stat. 1536, 1501A-570, as

¹ So in original. Does not conform to chapter heading.

amended by Pub. L. 107-273, div. C, title III, §13202(c)(2), Nov. 2, 2002, 116 Stat. 1902, substituted “Ex Parte Reexamination of Patents” for “Reexamination of Patents” in item for chapter 30 and added item for chapter 31.

1982—Pub. L. 97-256, title I, §101(7), Sept. 8, 1982, 96 Stat. 816, added item for chapter 30.

CHAPTER 25—AMENDMENT AND CORRECTION OF PATENTS

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AMENDMENTS

2002—Pub. L. 107-273, div. C, title III, §13206(a)(18), Nov. 2, 2002, 116 Stat. 1905, substituted “Correction of named inventor” for “Misjoinder of inventor” in item 256.

1975—Pub. L. 93-596, §1, Jan. 2, 1975, 88 Stat. 1949, substituted “Patent and Trademark Office” for “Patent Office” in item 254.

§ 251. Reissue of defective patents

Whenever any patent is, through error without any deceptive intention, deemed wholly or partly inoperative or invalid, by reason of a defective specification or drawing, or by reason of the patentee claiming more or less than he had a right to claim in the patent, the Director shall, on the surrender of such patent and the payment of the fee required by law, reissue the patent for the invention disclosed in the original patent, and in accordance with a new and amended application, for the unexpired part of the term of the original patent. No new matter shall be introduced into the application for reissue.

The Director may issue several reissued patents for distinct and separate parts of the thing patented, upon demand of the applicant, and upon payment of the required fee for a reissue for each of such reissued patents.

The provisions of this title relating to applications for patent shall be applicable to applications for reissue of a patent, except that application for reissue may be made and sworn to by the assignee of the entire interest if the application does not seek to enlarge the scope of the claims of the original patent.

No reissued patent shall be granted enlarging the scope of the claims of the original patent unless applied for within two years from the grant of the original patent.

(July 19, 1952, ch. 950, 66 Stat. 808; Pub. L. 106-113, div. B, §1000(a)(9) [title IV, §4732(a)(10)(A)], Nov. 29, 1999, 113 Stat. 1536, 1501A-582; Pub. L. 107-273, div. C, title III, §13206(b)(1)(B), Nov. 2, 2002, 116 Stat. 1906.)

HISTORICAL AND REVISION NOTES

Based on Title 35, U.S.C., 1946 ed., §64 (R.S. 4916, amended May 24, 1928, ch. 730, 45 Stat. 732.)

The sentences of the corresponding section of existing statute are rearranged and divided into two sections with some changes in language. The clause at the end of the present statute is omitted as obsolete.

The third paragraph incorporates by reference the requirements of other applications, and adds a new provi-

sion relating to application for reissue being made in certain cases by the assignee.

A two year period of limitation on applying for broadened reissues is added, codifying the present rule of decision with a fixed period.

AMENDMENTS

2002—Pub. L. 107-273 made technical correction to directory language of Pub. L. 106-113. See 1999 Amendment note below.

1999—Pub. L. 106-113, as amended by Pub. L. 107-273, substituted “Director” for “Commissioner” in first and second pars.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-113 effective 4 months after Nov. 29, 1999, see section 1000(a)(9) [title IV, §4731] of Pub. L. 106-113, set out as a note under section 1 of this title.

§ 252. Effect of reissue

The surrender of the original patent shall take effect upon the issue of the reissued patent, and every reissued patent shall have the same effect and operation in law, on the trial of actions for causes thereafter arising, as if the same had been originally granted in such amended form, but in so far as the claims of the original and reissued patents are substantially identical, such surrender shall not affect any action then pending nor abate any cause of action then existing, and the reissued patent, to the extent that its claims are substantially identical with the original patent, shall constitute a continuation thereof and have effect continuously from the date of the original patent.

A reissued patent shall not abridge or affect the right of any person or that person's successors in business who, prior to the grant of a reissue, made, purchased, offered to sell, or used within the United States, or imported into the United States, anything patented by the reissued patent, to continue the use of, to offer to sell, or to sell to others to be used, offered for sale, or sold, the specific thing so made, purchased, offered for sale, used, or imported unless the making, using, offering for sale, or selling of such thing infringes a valid claim of the reissued patent which was in the original patent. The court before which such matter is in question may provide for the continued manufacture, use, offer for sale, or sale of the thing made, purchased, offered for sale, used, or imported as specified, or for the manufacture, use, offer for sale, or sale in the United States of which substantial preparation was made before the grant of the reissue, and the court may also provide for the continued practice of any process patented by the reissue that is practiced, or for the practice of which substantial preparation was made, before the grant of the reissue, to the extent and under such terms as the court deems equitable for the protection of investments made or business commenced before the grant of the reissue.

(July 19, 1952, ch. 950, 66 Stat. 808; Pub. L. 103-465, title V, §533(b)(2), Dec. 8, 1994, 108 Stat. 4989; Pub. L. 106-113, div. B, §1000(a)(9) [title IV, §4507(8)], Nov. 29, 1999, 113 Stat. 1536, 1501A-566.)

HISTORICAL AND REVISION NOTES

Based on Title 35, U.S.C., 1946 ed., §64 (R.S. 4916, amended May 24, 1928, ch. 730, 45 Stat. 732.)